

In the Supreme Court of the State of Idaho

IN RE: IDAHO JUVENILE RULES)
(I.J.R.) AMENDING RULE 10 AND)
ADOPTING RULES 10A AND 10B)
_____)

ORDER

The Court having reviewed a recommendation from the Juvenile Rules Advisory Committee and the Administrative Conference to amend Rule 10 of the Idaho Juvenile Rules, and to adopt Rules 10A and 10B of the Idaho Juvenile Rules, and the Court being fully informed;

NOW, THEREFORE, IT IS HEREBY ORDERED that the Idaho Juvenile Rules as they appear in the volume published by the Idaho Code Commission be, and they are hereby, amended as follows:

1. That Rule 10 be, and the same is hereby, repealed in its entirety and a new Rule 10 is hereby adopted as follows:

**Rule 10. Transfer of case for sentencing to county of juvenile's residence.
(J.C.A.)**

(a) When a petition alleges the commission of a juvenile offense in a county other than the county of the juvenile's residence, the matter may be transferred upon order of the court where the offense is alleged to have occurred (sending court) to the county of the juvenile's residence (receiving court) if the following conditions are met:

(1) (A) The juvenile admits to the allegation or enters into a written agreement as to the charges to be admitted and enters into a written notice of intent to enter an admission to the petition in the county where the offense is alleged to have occurred; or (B) The juvenile has been found by the Court to have committed the offense following evidentiary hearing and to be within the purview of the J.C.A.; and

(2) The sending court finds that transfer of the matter to the receiving court is in the best interest of the juvenile and the prompt administration of the court's business, and the sending court further determines that transfer of sentencing to the county of the juvenile's residence will impose no unreasonable barriers of distance to any persons entitled to be heard at the sentencing hearing.

(b) For purposes of Idaho Juvenile Rules 10, 10A and 10B, a county of the juvenile's residence is deemed to be a county in which the juvenile is actually residing with a parent/legal guardian/legal custodian, or a county in which a proceeding involving the juvenile under the Idaho Child Protective Act is currently pending, or, if a juvenile is over 18 years of age, the county where the former juvenile has established a residence. Any juvenile whose residency cannot be ascertained by the juvenile courts may be deemed homeless and afforded the protections of the Idaho Child Protective Act by invoking Idaho Juvenile Rule 16.

(c) Upon satisfaction of the conditions set forth in (a)(1) and (2) above, the receiving court shall not refuse transfer of the matter hereunder, except upon a finding that the juvenile does not reside in the receiving county.

(d) Upon transferring a case, the sending court shall:

(1) Order the case and all original documents and records therein transferred to the magistrate's division of the district court of the county of the juvenile's residence for sentencing; and

(2) Notify the juvenile and the juvenile's parent(s) and/or legal guardian/legal custodian that any order appointing defense counsel at public expense does not extend beyond the county where the offense occurred, and that further legal representation must be requested through the court in the county of the juvenile's residence; and

(3) Notify the court in the county of the juvenile's residence in writing of the court's order of transfer and the manner in which restitution to any victim(s) has been resolved pursuant to (h) below.

(e) The receiving court shall notify the juvenile and the juvenile's parent(s) and/or legal guardian/legal custodian of the date and time of the juvenile's next appearance.

(f) Following entry of the order of transfer by the sending court, if the juvenile fails to enter an admission as contemplated in the written notice of intent to enter an admission, or the juvenile withdraws the admission previously entered before the sending court, or the receiving court fails or refuses to accept the admission or transfer of the matter, then all original documents and records shall be promptly returned to the sending court and the matter shall be set for evidentiary hearing. Nothing in this rule shall limit the receiving court's sentencing authority under Idaho Code § 20-520, nor prevent the court from proceeding to sentencing on any matter found within the purview of the court under the Juvenile Corrections Act.

(g) In all cases under this rule, the receiving court shall conduct an admit/deny hearing, if not previously held, pursuant to Idaho Juvenile Rule 6 and may combine the admit/deny and sentencing hearings.

(h) If the issue or the amount of restitution is contested, it shall be resolved by the court of the county where the criminal offense occurred.

(i) Any signature, acknowledgment or consent of a juvenile to a notice of intent to admit shall not be used to incriminate the juvenile in a subsequent trial on the merits of the charge.

(j) The written notification of a juvenile's intention to admit a petition shall substantially conform to the following form:

IN THE DISTRICT COURT OF THE ____ JUDICIAL DISTRICT
OF THE STATE OF IDAHO IN AND FOR THE COUNTY OF _____

In the Interest of _____)
) AGREEMENT TO ADMIT TO CHARGES,
) PERMISSION TO READ PROBATION REPORTS
) AND REQUEST TO TRANSFER CASE
)
A Juvenile.)

After having spoken with my attorney and with my parent(s) (or my guardian, or my legal custodian) I have decided that:

1. I want to have my case sent to the county where I live;
2. I agree to admit to the charge(s) against me when I am in front of the judge in that county;
3. I give up my right to keep this Court from looking at any probation officer reports before sentencing, and ask the Court to do so, in order to decide whether this transfer is in my best interest and the administration of justice; and if so,
4. I ask the Court to order my case transferred to the county where I am now living.

Signature of Juvenile

Signature of Juvenile's Attorney

(k) The sending court's order of transfer shall substantially conform to the following form:

IN THE DISTRICT COURT OF
THE ____ JUDICIAL DISTRICT OF THE STATE OF
IDAHO, IN AND FOR THE COUNTY OF _____

In the Interest of: _____)
) Case No. _____
)
) Petition No. _____
A Juvenile.)
) ORDER OF TRANSFER
)
_____)

The above petition(s) having been filed on the _____ day of _____, 20____, and the said juvenile having [filed a notice of intent to admit/ admitted the violation(s), as charged] [been found to have committed the violations] on the _____ day of _____, 20____; and

Restitution having been resolved per I.J.R. 10(h) as follows:
; and

It appearing to the court that the said juvenile is not a resident of _____ County, and that _____ County is a county of the juvenile's residence, and that it would be in the juvenile's best interest to be under the jurisdiction of the Magistrate Division of the District Court of _____ County, Idaho;

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the above-named juvenile is within the purview of the Juvenile Corrections Act, and the said cause in the matter of the said juvenile shall be transferred to the Magistrate Division of the District Court of _____ County, Idaho, for admit/deny and/or sentencing hearing(s).

DATED this _____ day of _____, _____.

Magistrate Judge

4. That a **NEW** Rule 10A be, and the same is hereby, adopted to read as follows:

Rule 10A. Transfer of probation for courtesy supervision. (J.C.A.)

(a) The dispositional/supervising court, as the sending court, at sentencing or at any time during a probationary period, may enter an order transferring a juvenile probationer's terms of probation for courtesy supervision to a receiving court in another county within the State of Idaho if:

(1) the sending court determines, upon good cause shown, that the juvenile resides, or intends to reside, with a parent or legal guardian/legal custodian, or in a placement at a residential treatment facility, or a foster home, in the receiving county; and,

(2) the juvenile retains community ties with the county of the sending court through continued maintaining of a residence by a parent or legal guardian/legal custodian, or the continued pendency of a C.P.A. proceeding therein; and

(3) transfer of probation for courtesy supervision is in the best interest of the juvenile and the prompt administration of the court's business.

(b) Transfer of probation to the receiving court for courtesy supervision shall be temporary, for a period not exceeding six months unless extended by the sending court, and certified copies of the sentencing decree, court minutes, reports, assessments and other pertinent records shall be transferred to the receiving court, the originals of which shall be retained by the sending court.

(c) (1) Prior to transfer of probation for courtesy supervision, the sending court shall order that all imposed sentencing penalties of detention/jail days yet to be completed by the juvenile probationer shall be served and the costs therefore recovered, in the sending county, unless prior thereto, the receiving court agrees in writing to allow the juvenile to serve said penalties in the receiving county, the costs of which to be recovered there. Any sentencing penalties of detention/jail days that are unscheduled or held at the discretion of the court may be imposed by the receiving court and the cost therefore recovered in the receiving county.

(2) Any order transferring probation for courtesy supervision shall include a requirement that the juvenile probationer shall comply with any groups or programs in the receiving county which are consistent with the sending court's order of probation and deemed appropriate by the receiving court.

(d) Upon receipt of an order transferring probation for courtesy supervision, the receiving court shall determine the type of supervision and services available in the receiving county which are most consistent with, but not more restrictive than, the transferred order of probation and shall enter an order requiring the juvenile probationer to comply with said supervision and services in the receiving county.

(e) (1) Any motion for violation of probation alleged to have occurred while a juvenile is on courtesy supervision shall be filed by the prosecuting attorney of the sending county, supported by affidavit of any juvenile court officer or other person with knowledge of said violation, and shall be adjudicated by the court of the sending county.

(2) Any substantive charges including status offenses, misdemeanors or felonies, alleged to have been committed in the receiving county or any other county by a juvenile probationer while on courtesy supervision shall be brought by the prosecuting attorney of the county where the crime allegedly occurred and adjudicated by the juvenile court in that county.

(3) Any victim notification requirements shall be the responsibility of the prosecuting attorney having the duty to initiate the proceedings set forth herein.

(f) The sending court shall have the sole authority to extend, revoke or terminate early the probationary order of any juvenile being supervised in the receiving county under a six-month period of courtesy supervision. In reaching its decision, the sentencing/sending court shall set a review hearing prior to the expiration of the six-month period and consider any requests and reports submitted by the receiving county, and any extension of courtesy supervision shall be for an additional period not exceeding six months; provided, no such extension shall exceed the duration of probation ordered at sentencing.

(g) Any restitution ordered to victims must be determined by the juvenile court of the county where the offense occurred pursuant to Idaho Juvenile Rule 10(h). In cases transferred for courtesy supervision, the monitoring of the receipt of payments for restitution, as well as other payments for fees owed to the sending county, shall be the responsibility of the sending court. Any motion for a probation violation for nonpayment of fees, including restitution, must be pursued, per subsection (5) of this rule, in the sending county. Repayment for fees incurred in the receiving county shall be handled by the receiving court.

(h) (1) A juvenile probationer under a suspended commitment for secure confinement with the Department of Juvenile Corrections, may be transferred by the sending court to the receiving court only under the terms of an order for courtesy supervision. Any motion for a probation violation must be pursued, per subsection (5) of this rule, in the sending county.

(2) Any non-secure placement of a juvenile committed to the Department of Juvenile Corrections, while the juvenile remains under the custody of the Department, in a county other than the sentencing county, shall be the responsibility of the Department and not deemed to be a courtesy supervision.

(3) In the event that a juvenile is released from the custody of the Department of Juvenile Corrections to a placement outside of the sentencing county, the sentencing court shall hold a hearing pursuant to Idaho Juvenile Rule 20 to determine whether to transfer probationer for courtesy supervision under this rule.

(i) The receiving court shall not refuse transfer of a juvenile probationer for courtesy supervision, except as set forth in Idaho Juvenile Rule 10(c).

(j) The receiving court shall assume jurisdiction of a juvenile hereunder when the order transferring probation for courtesy supervision is received.

(k) The order transferring probation for courtesy supervision shall substantially conform to the follow form:

IN THE DISTRICT COURT OF
THE _____ JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF _____

In the Interest of:) Case No. _____
_____) Petition No. _____
)
A juvenile.) ORDER OF TRANSFER FOR
_____) COURTESY SUPERVISION

The above named juvenile was found to be in the purview of the Juvenile Corrections Act. The juvenile was placed on probation in _____ County. From information provided the court, the court finds:

(1) upon good cause shown, that the juvenile resides, or intends to reside, with a parent or legal guardian/legal custodian, or in a placement at a residential treatment facility, or a foster home, in the receiving county; while,

(2) the juvenile retains community ties with the county of the sending court through continued maintaining of a residence by a parent or guardian, or the continued pendency of a C.P.A. proceeding, therein; and

(3) transfer of probation for courtesy supervision is in the best interest of the juvenile and the prompt administration of the court's business.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the above-named juvenile is within the purview of the Juvenile Corrections Act, and pursuant to IJR 10A the juvenile's probation is transferred to _____ County for courtesy supervision. The juvenile probationer shall comply with any groups or programs in

the receiving county which are consistent with the sending court's order of probation and deemed appropriate by the receiving court.

DATED this _____ day of _____, ____.

Magistrate Judge

3. That a **NEW** Rule 10B be, and the same is hereby, adopted to read as follows:

Rule 10B. Transfer of probation in its entirety. (J.C.A.)

(a) The dispositional/supervising court, as the sending court at sentencing, or at any time during a probationary period, may enter an order transferring the entirety of a juvenile probationer's terms of probation to a receiving court in another county within the State of Idaho if:

(1) the sending court determines, upon good cause shown, that the juvenile resides, or intends to reside, with a parent or legal guardian/legal custodian in the receiving county; and

(2) the juvenile retains no further community ties with the county of the sending court because residency by a parent or legal guardian/legal custodian there has ceased ; and

(3) transfer of probation in its entirety is in the best interest of the juvenile and the prompt administration of the court's business.

(b) Transfer of probation in its entirety to the receiving court shall be deemed permanent, and all original documents and records therein shall be transferred to the receiving court pursuant to Idaho Juvenile Rule 10(d).

(c) The sending and receiving courts involved in any transfer of probation in its entirety shall follow the requirements and procedures set forth in Idaho Juvenile Rule 10A(c) and (d).

(d) Any motion for violation of probation alleged to have occurred after an order transferring probation in its entirety has been entered by the sending court shall be filed by the prosecuting attorney of the receiving county, supported by affidavit, and shall be adjudicated by the court of the receiving county.

(e) Any county receiving the transfer of probation in its entirety from the sending county, or assuming the supervision of the probation in its entirety under subsection (f) below, shall be deemed to be the county of residence of the juvenile probationer. Any substantive charges alleged to have been committed thereafter by the juvenile probationer shall be petitioned, adjudicated and sentenced pursuant to Idaho Juvenile Rule 10.

(f) At the six-month review hearing regarding courtesy supervision set forth in Rule 10A(f), or at any other time, the sending court may enter an order transferring probation in it entirety, or the receiving court may enter an order, upon its own motion, assuming the supervision of probation in its entirety if the actual residence of the juvenile in the receiving county is found to be stable and permanent, and it is in the best interest of the juvenile and the prompt administration of justice.

(g) Any non-payment of fees, including restitution, owed in the sending county by the juvenile probationer whose probation has been transferred in its entirety to, or assumed in its entirety by, the receiving county may be pursued by a motion for violation of probation in the receiving county or a motion for contempt filed in the sending or receiving county.

(h) No order transferring probation in its entirety by the sending court, nor order assuming supervision of probation in its entirety by the receiving court, shall be entered regarding any juvenile probationer who is under a suspended commitment for secure confinement with the Department of Juvenile Corrections.

(i) The duration of any probationary period transferred or assumed in its entirety hereunder shall be solely determined by the receiving court.

(j) The receiving court shall not refuse transfer of probation in its entirety, except as set forth in Rule 10(c).

(k) The receiving court shall assume jurisdiction of a juvenile hereunder when the order transferring probation in its entirety is received from the sending county or when the order assuming the supervision of probation is entered by the receiving court.

(l) The order transferring probation in its entirety, or assuming supervision of probation in its entirety shall substantially conform to the following form:

IN THE DISTRICT COURT OF THE _____ JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF _____

In the Interest of:) Case No. _____
_____) Petition No. _____
)
A juvenile.) ORDER OF TRANSFER OF
_____) PROBATION IN ITS ENTIRETY

The above named juvenile was found to be in the purview of the Juvenile Corrections Act. The juvenile was placed on probation in _____ County. From information provided the court, the court finds:

- (1) upon good cause shown, that the juvenile resides, or intends to reside, with a parent or legal guardian/legal custodian in the receiving county; and
- (2) the juvenile retains no further community ties with the county of the sending court because residency by a parent or guardian there has ceased to continue; and
- (3) transfer of probation in its entirety is in the best interest of the juvenile and the prompt administration of the court's business.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the above-named juvenile is within the purview of the Juvenile Corrections Act, and pursuant to IJR 10B the juvenile's probation is transferred to _____ County. The juvenile probationer shall comply with any groups or programs in the receiving county which are consistent with the sending court's order of probation and deemed appropriate by the receiving court.

DATED this _____ day of _____, _____.

Magistrate Judge

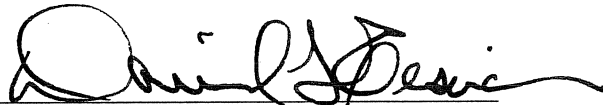
IT IS FURTHER ORDERED, that this order and these amendments shall be effective the 1 day of ~~September~~^{November}, 2008.

IT IS FURTHER ORDERED, that the above designation of the striking of words from the Rules by lining through them, and the designation of the addition of new portions of the Rules by underlining such new portion is for the purposes of information only as amended, and NO OTHER AMENDMENTS ARE INTENDED. The lining through and underlining shall not be considered a part of the permanent Idaho Juvenile Rules.

IT IS FURTHER ORDERED, that the Clerk of the Court shall cause notice of this Order to be published in one issue of *The Advocate*.

DATED this 9 day of September, 2008.

By Order of the Supreme Court



Daniel T. Eismann
Chief Justice

ATTEST


Clerk

I, Stephen W. Kenyon, Clerk of the Supreme Court of the State of Idaho, do hereby certify that the above is a true and correct copy of the Order entered in the above entitled cause and now on record in my office.
WITNESS my hand and the Seal of this Court 9/9/08

STEPHEN W. KENYON

Clerk

By: Kimber Grane

Deputy